SIKKIM

GOVERNMENT GAZETTE

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GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

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NOTIFICATION

In exercise of the power conferred by Section 31 of The Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (34 of 2003), the Central Government hereby makes the following Rules, in supersession to Rule 3 of the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Rules, 2004, namely:-

1. Short title, Extent and Commencement:

(1) These rules may be called the Prohibition of Smoking in Public Places Rules, 2008.

(2) They shall come into force on the 2nd October, 2008.

2. Definitions: In these rules, unless the context otherwise requires,-

(a) "hotel" shall mean a building or a part of a building where lodging, with or without board or other services, is provided by way of business for consideration monetary or otherwise and includes boarding house and guest house.

(b) "restaurant" shall mean any place to which the public has access and where any kind of food or drink is supplied for consumption on the premises by any person by way of business for consideration monetary or otherwise and shall include the open space surrounding such premises and includes-

(i) refreshment rooms, banquet halls, discotheques, canteen, coffee house, pubs, bars, airport lounge, and the like.

(c) "open space" mentioned in Section 3(1) of the Act shall not include any place visited by the public such as open auditorium, stadium, railway station, bus stop/stand and other such places.

(d) "public place" defined in Section 3(1) of the Act shall also include work places, shopping malls, and cinema halls.

(e) "smoking area or space" mentioned in the proviso to Section 4 of the Act shall mean a separately ventilated smoking room that:

(i) is physically separated and surrounded by full height walls on all four sides;

(ii) has an entrance with an automatically closing door normally kept in dose position;

(iii) has an air flow system, as specified in schedule I,

(iv) has negative air pressure in comparison with the remainder of the building.

(f) Words and expressions used herein and not defined in these rules but defined in the Act shall have the meanings, respectively, assigned to them in the Act.

3. Prohibition of smoking in a public place:

(1) The owner, proprietor, manager, supervisor or in charge of the affairs of a public place shall ensure that:

(a) No person smokes in the public place (under his jurisdiction/implied).

(b) The board as specified in schedule II is displayed prominently at the entrance of the public place, in case there are more than one entrance at each such entrance and conspicuous place(s) inside. In case if there are more than one floor, at each floor including the staircase and entrance to the lift/s at each floor.

(c) No ashtrays, matches, lighters or other things designed to facilitate smoking are provided in the public place.

(2) The owner, proprietor, manager, supervisor or incharge of the affairs of a public place shall notify and cause to be displayed prominently the name of the person(s) to whom a complaint may be made by a person(s) who observes any person violating the provision of these Rules.

(3) If the owner, proprietor, manager, supervisor or the authorized officer of a public place fails to act on report of such violation, the owner, proprietor, manager. supervisor or the authorized officer shall be liable to pay fine equivalent to the number of individual offences.

(Explanation: For the purpose of these rules the word offence means a person found violating any provision of the Rules).

4. Hotels, Restaurants and Airports:

(1) The owner, proprietor, manager, supervisor or in charge of the affairs of a hotel having thirty or more rooms or restaurant having seating capacity of thirty persons or more and the manager of the airport may provide for a smoking area or space as defined in rule 2(e) .

(2) Smoking area or space shall not be established at the entrance or exit of the hotel, restaurant and the airport and shall be distinctively marked as "Smoking Area" in English and one Indian language, as applicable.

(3) A smoking area or space shall be used only for the purpose of smoking and no other service(s) shall be allowed.

(4) The owner, proprietor, manager, supervisor or in-charge of the affairs of a hotel having thirty or more rooms may designate separate smoking rooms in the manner prescribed as under:

(a) all the rooms so designated shall form a separate section in the same floor or wing, as the case may be. In case of more than one floors/wings the room shall be in one floor/wing as the case may be.

(b) all such rooms shall be distinctively marked as "Smoking rooms" in English and one Indian language, as applicable.

(c) the smoke from such room shall be ventilated outside and does not infiltrate/permeate into the non-smoking areas of the hotel including lobbies and the corridors.

5. Recovery of fine by authorized officers: (1) The authorized officers mentioned in schedule III shall be competent to act under and compound the offences committed in violation of Section 4 of the Act.

Schedule I
[See Rule 2 (e) (iii)]

(i) that is exhausted directly to the outside and not mixed back into the supply air for the other parts of the building; and

(ii) It is fitted with a non-re circulating exhaust venti-lation system or an air cleaning system, or by a combination of the two, to ensure that the air discharges only in a manner that does not re-circulate or transfer it from a smok-ing area or space to non-smoking areas.

Schedule II
[See rule 3(b)]

1. The board shall be of a minimum size of 60 cm by 30 cm of white background.

2. It shall contain a circle of no less than 15 cm outer diameter with a red perimeter of no less than 3 cm wide with a picture, in the centre, of a cigarette or beedi with black smoke and crossed by a red band.

3. The width of the red band across the cigarette shall equal the width of the red perimeter.

4. The board shall contain the warning "No Smoking Area-Smoking Here is an Offence", in English or one Indian language, as applicable.

Schedule III
(See Rule 5)

Authorised Officers : Following persons shall be authorized to impose and collect the fine against the violation of Section 4.

Sl. No.	Person Authorised to take action	Description of Public Place
1.	Inspectors of Central Excise/Income-tax Customs/Sales Tax/Health/Transport and above	All Public Places within their jurisdiction
2.	Station Master/Asstt. Station Master/Station Head/Station incharge	Railways and all its Premises
3.	All Gazetted Officers of State/Central Government orequivalent rank and above in Autonomous Organizations/PSU	Government offices/premises and offices of the autonomous bodies and corporations
4.	Director/Medical Superintendent/Hospital Administrator	Government and Private Hospital
5.	Post Master and above	Respective Post Office in their jurisdiction.

6.	Head of the Institution/HR Manager/Head of Administration	Private Offices/Workplaces
7.	College/School/Headmaster Principal/Teacher	RespectiveEducational Institutions
8.	Librarian/Asstt. Librarian/Library incharge/other administrative staff in library.	Libraries/Reading Rooms.
9.	Airport Manager/Officers of Airport Authority of India and Officers of all schedule Airlines	Airports
10.	Director Public Health/Director Health Services	All Public Places
11.	In charge Administration in Central/State Government	All Public Places
12.	Nodal Officers/Focal Points of Anti-Tobacco Cell at District and State level.	All Public Places

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